STATE OF MICHIGAN

COURT OF APPEALS

In re JOHNSON, Minors.

UNPUBLISHED
December 9, 2014

No. 321578
Wayne Circuit Court
Family Division
LC No. 13-514667

Before: RIORDAN, P.J., and BECKERING and BOONSTRA, JJ.

PER CURIAM.

Respondent is the father of two minor children, MJ1 and MJ2. He appeals by right the trial court's March 27, 2014 order terminating his parental rights to both children. We affirm.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

On October 17, 2013, petitioner filed a petition alleging that respondent had abused SB, the 18-month-old sibling of the mother of respondent's children, LB.[1] The incident that led to the filing of the petition involved burns that SB sustained while in respondent's care. The children were removed from respondent's and LB's care. The petition asked the trial court to take jurisdiction over the children and terminate respondent's parental rights based on the doctrine of anticipatory abuse or neglect.

A. PRETRIAL PROCEEDINGS

At the first pretrial hearing, respondent's counsel asserted that she had not received some requested discovery and planned on filing a motion to compel discovery. Counsel also requested that the trial be adjourned; the referee held that request in abeyance pending the results of counsel's discovery motion.

On October 30, 2013, petitioner filed a "tender years" motion with the referee, seeking the admission at trial of hearsay statements made by S, SB's nine year-old brother, to Carla Schmit, a Child Protective Services (CPS) worker in Wisconsin. The hearing on petitioner's motion was held on November 6, 2013. Prior to the referee's decision on petitioner's motion, the referee declined respondent's counsel's request to adjourn the hearing until discovery was

[1] SB is thus the uncle of respondent's two minor children.

completed, noting that counsel had not filed a motion to compel discovery with the court despite her statement at the pretrial hearing that she intended to do so. The referee continued to hold in abeyance respondent's request to adjourn the trial pending the outcome of any motions for discovery filed by respondent's counsel.

At the same hearing, the referee heard testimony regarding the statements that petitioner sought to have admitted at trial. Schmit testified by phone that she interviewed S on September 23, 2013 at his aunt's house in Wisconsin after she had been contacted by Michigan CPS concerning SB's injuries. Schmit testified that she was a trained forensic interviewer, that she had completed over 500 child interviews in her career, and that she used forensic interviewing protocol during this interview. Schmit testified that S could distinguish truth from a lie and that he agreed to be truthful during the interview.

Schmit testified that S told her he was present when SB was burned. S told her that SB "got dirty, so he needed to take another bath" and that the bathwater was "smoking" and "really hot." S told her that respondent had said that SB "had to stay in the water because he had to learn to like it." S told Schmit that he, rather than respondent, had removed SB from the water and placed his feet next to a fan because they were hot. S further told Schmit that respondent had left the home for a short time before LB came home; when she came home she was "really mad." Schmit testified that S stated that LB took the children "somewhere else" before taking SB to the hospital; Schmit could not remember where.

S also told Schmit that respondent was a "psycho" and had tried to kill MJ1 with a knife. S claimed that he "grabbed the knife away" from respondent, and that LB got "really mad" about the knife. S also told Schmit that respondent hit both of his children with a belt that has circles on it, and that respondent had "flipped" S over his head and caused him to hit his head on a ceiling fan.

Schmit testified that S's affect (demeanor) was unusual because he did not seem to be traumatized by the events he described and "talked about them as it [sic] was like just another day in his life." Schmit said her interview with S lasted about 15 minutes and she spent about an hour in the home. Schmit testified that she was not aware that S received social security benefits for mental health issues, and did not do any psychological testing of S.

Felicia Drew, a CPS worker, testified that she had seen SB's burned feet. Pictures of the burns were admitted as part of a certified packet of medical records from the Children's Hospital.

The referee ruled that Schmit's testimony regarding S's statements would be incorporated into the bench trial pursuant to MCR 3.972(C)(2). The referee first rejected the argument that S's statements were not admissible because he was not the subject of the alleged abuse. The referee then found that S's statements contained sufficient indicia of trustworthiness for admission, and noted that S's statements concerning SB's burns were corroborated by the photos of the burns. The referee stated that counsel could argue what weight should be given to the testimony at the close of trial.

On November 12, 2013, respondent's counsel filed a motion for discovery; that motion was heard by the trial judge on November 20, 2013. At the motion hearing, petitioner agreed to provide discovery materials it possessed and to allow respondent's counsel to review its file;

additionally it agreed to provide access to a DVD recording of a forensic interview conducted in Michigan of S.[2] Respondent's counsel was told that the court could issue subpoenas to assist her in obtaining any other information she might need.

At a motion hearing on December 2, 2013, the trial judge affirmed the referee's decision to admit S's statements. Other discovery issues were resolved at this hearing and respondent's counsel indicated satisfaction with discovery at that point. The trial judge made it clear that S's statements could be impeached at trial.

B. ADJUDICATION BENCH TRIAL/DISPOSITIONAL HEARING ON STATUTORY GROUNDS FOR TERMINATION

A bench trial was held on December 3 and 6 of 2013; at the request of respondent, jurisdictional issues and proofs regarding statutory grounds for termination of respondent's parental rights[3] were bifurcated from the best-interest determination.[4] Respondent testified that he had been visiting his children at LB's home on September 6, 2013, and that SB was also present. Respondent testified that LB and his younger child had gone to Walmart. At some point, respondent discovered that SB had defecated in his clothes and was rubbing it on his clothing and the walls. Respondent testified that he removed SB's clothes and placed them in the closet, removed SB's diaper, took him to the bathroom and set him on the floor, and began running water in the bathtub. Respondent testified that he went downstairs to get a mop, and began mopping up the feces; after two or three minutes he realized he should not have left SB alone in the bathroom with the water running and went back to check on him. Respondent testified that he returned to find SB in the bathtub, and that SB was "[s]tepping lightly between one foot and the other" and "doing more of a whimper . . . more than crying." Respondent denied that SB was splashing or running in the water. Respondent checked the water and discovered that it was "scalding hot."

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[2] The interview was not referenced at trial and the DVD is not a part of the lower court record.

[3] Petitioner did not seek termination of LB's parental rights. The children were made temporary wards with supervised visitation from LB.

[4] A respondent to a petition seeking termination of parental rights has the right to a trial (i.e., an adjudication) of the merits of the petition. MCR 3.972; *In re Sanders*, 495 Mich 394, 405; 852 NW2d 525 (2014). Following the adjudicative phase, if the court takes jurisdiction over the children by authorizing the petition, the dispositional phase, which determines "what measures the court will take with respect to a child properly within its jurisdiction," occurs; a respondent is not entitled to a trial regarding disposition. *Id.* Dispositional proceedings are properly termed "dispositional hearings." *Id.* Here, it appears that the adjudicative phase bench trial was immediately followed by a dispositional hearing concerning statutory grounds for termination, with a later-scheduled hearing concerning a best-interest determination. Thus, while the parties generally refer to "the bench trial," the December 3 and 6 proceedings are properly termed an adjudication bench trial followed immediately by the first part of a bifurcated dispositional hearing.

Respondent removed SB from the water and placed him on a bed; he testified that SB was whimpering and his feet were "a little pinkish." Respondent testified that shortly thereafter SB began crying and blisters formed on his feet; respondent contacted LB and they took SB to the hospital. Respondent denied causing bruises on SB's thighs.

Dr. May Lou Angelilli, a pediatrician and member of the Children's Hospital of Michigan's "burn team" for the past five years, testified that her job involved reviewing injuries, including burns, for signs of child abuse. The referee qualified. Angelilli as an expert in child abuse.

Angelilli examined SB on September 9, 2013 after she was asked by "the pediatric surgeons" of the Children's Hospital to evaluate SB for other injuries and give an opinion regarding whether any injuries were caused by abuse. Angelilli testified that SB suffered second degree burns (also known as "partial thickness" burns) to his feet, in which "some of the skin comes off but not the full depth of the skin so a partial layer of skin comes off . . . ." Angelilli testified that the burns were symmetrical, "circumferential," and "well demarcated at the top margin of the ankle," meaning that the burns were the same on both legs, went all around the whole leg, and had a very clear line between burned and unburned skin. Angelilli testified that the burns' characteristics suggested that SB was held down in hot water and prevented from lifting his legs or splashing. Angelilli found respondent's account, that he returned to the bathroom and found SB in the bathtub, implausible because a toddler of SB's age is developmentally able to climb out of a tub and would not have stayed in scalding water.

Angelilli discovered "quite a number of bruises" on SB. Angelilli found that some of the bruises and lacerations were not suspicious; however, she found five small bruises on his left inner thigh and three small bruises on his left outer thigh suspicious. She testified that these bruises were not in locations where an accidental injury would likely occur, and were consistent with someone grasping SB's left leg. Angelilli testified that the bruises could be linked to the burns, as they may have resulted from someone holding SB down to keep him in the water. However she could not say whether the bruises corresponded to an adult hand, or a child's hand, nor could she establish a "temporal relationship" of the bruises to the burn.

Drew testified that she had interviewed respondent and LB. Respondent told Drew substantially the same version of events as described above, although Drew stated that respondent described SB as "doing more like a jogging motion in the bathtub." LB told Drew that she was shopping when she received a call from respondent that SB had been burned. LB told Drew that only SB and MJ1 were home with respondent during the incident.

The referee incorporated Schmit's testimony from the tender years hearing. Regarding that testimony, respondent denied ever hitting his children or threatening them with a knife, and denied ever causing S to be hit by a ceiling fan. Respondent also called Valerie Brown, who described herself as "like a grandmother" although not biologically related to LB. Brown testified that in her opinion, based on conversations with S's relatives and teachers, S did not know the difference between truth and a lie and was confused.

The referee found that the allegations of the petition had been proven sufficiently for the court take jurisdiction over the children, and authorized the petition. Turning to the dispositional phase, the referee found that petitioner had proven that statutory grounds to terminate

respondent's parental rights had been proven by clear and convincing evidence, specifically grounds under MCL 712A.19b(3)(g) (failure to provide proper care) and (j) (reasonable likely that child will be harmed if returned to home). The referee addressed S's statements, acknowledging that there was conflicting evidence regarding whether S was present when SB was burned. The referee found "some of the testimony as to the history of physical abuse" and stated that she would give it "some" weight. The referee stated that Angelilli's testimony concerning SB's injuries was "overwhelming" and that her conclusion that the burns were non-accidental was credible. The referee made reference to the doctrine of anticipatory abuse and neglect as articulated in *In re LaFlure*, 48 Mich App 377; 210 NW2d 482 (1973).

C. DISPOSITIONAL BEST-INTEREST HEARING

The second part of the bifurcated dispositional hearing on whether termination was in the children's best interests was held on January 29, 2014 and February 12, 2014. Respondent's mother testified that respondent was bonded with his children and was a positive influence on their lives. She also believed that respondent had accepted responsibility for SB's injuries, which she described as a result of "multitasking." Valerie Brown also testified that respondent was a good father who was bonded with his children.

Respondent testified that he was attending college and looking for employment. He testified that he loved his children and was involved in their education and activities. Respondent denied any domestic violence against LB. He described the incident with SB as an accident that had occurred because of his inattentiveness.

The referee found that it was in the children's best interests to terminate respondent's parental rights, stating:

> I'm very, very struck by the father's testimony admitting inflicting this burn on this child saying that he was multitasking. How in these pictures a child would not be screaming and be in abject pain and you would be notified immediately as to the level of pain involved. This was a young child, this Court already found clear and convincing evidence there was a young child who injured [sic] in his care. The father admitted to that injury and has really admitted to the Court nothing more than neglectful parenting and multitasking and the children in this case are very similar age to the child who was injured. And even though, the AGAL [attorney guardian ad litem] believes it's not in the best interest to terminate[5], some abuse to children is so egregious that people in this Court's opinion, should not have another chance to parent a child when that risk is involved. I realize there was testimony regarding the father that people had observed him be a good parent. And I think no one, somebody's mother, somebody's aunt, somebody's friend does not want to believe that anybody could have inflicted these types of injuries on a child. And for reasons that will be more

[5] On appeal, the guardian ad litem now maintains that termination is in the children's best interests.

> fully outlined in my Findings, the Court finds that . . . it is in the best interest that these children to terminate the father's parental rights and I do so.

The referee issued a report and recommendation on March 27, 2014. The report made reference to a psychological evaluation of respondent prepared by Gail Mills of the Clinic for Child Study. The evaluation indicated that respondent had a history of domestic violence against LB and was currently on probation for domestic violence against her.[6] The evaluation also indicated that respondent spent only 10 minutes with his children in the observational portion before saying he had to go home and sleep. The evaluation also stated that respondent was "unable . . . to give and [sic] appropriate response to a question intended to measure common sense abilities in a potentially dangerous situation," that respondent had not expressed any regret or remorse concerning the incident with SB, and that his "verbal and operational judgment suggest impairment."

The referee's report quoted Mills's recommendation regarding respondent's parental rights:

> Mr. Johnson presents as an angry young man. He is immature and extremely self-focused. He continues to address his own needs rather than those of the needs [sic] of his children. Despite the fact he is only visiting his children supervised once a week, he chose to end the visits with his children early in order to address his own needs, something witnessed by the clinician during the observation session at the Clinic. This clinician has numerous concerns for the children as well as [LB] for the wellbeing of the parties [sic] if Mr. Johnson was to remain a part of their lives and allowed the opportunity to plan for his children. It is the clinician's recommendation that it is in the best interests of the children that MR. [sic] Johnson's rights be terminated.

The referee's report concluded:

> The court, in deciding that it was in the best interests of children who are similarly situated to terminate the rights of the father, the Court finds that given the history of domestic violence between the young mother and the father, the abuse to the child [SB] (which cannot, per the medical doctor, an expert in child abuse, and the hospital record, be explained as accidental), the father's evaluation at the Clinic, the testimony of the Clinician, and the observed demeanor of the father at trial compel [sic] this court to conclude that it is in the best interests of these children, individually to terminate the rights of the father, Mr Johnson [sic] to this [sic] children.

[6] Michigan Department of Corrections's OTIS (Offender Tracking Information System) website indicates that respondent pleaded guilty to domestic violence, MCL 750.812, and 3rd degree home invasion, MCL 750.110a(4) and was sentenced to probation on October 22, 2013. See http://mdocweb.state.mi.us/otis2/otis2profile.aspx?mdocNumber=884816 (last accessed November 13, 2014).

The trial court adopted the referee's report and terminated respondent's parental rights on March 27, 2014. This appeal followed. On appeal, respondent asserts that the referee erred in (1) failing to adjourn the tender years hearing and trial, (2) admitting S's testimony pursuant to the tender years exception, and (3) qualifying Angelilli as an expert in burns. Respondent also challenges both the referee's determination that statutory grounds for termination were proven, and the referee's best-interest determination.

II. EVIDENTIARY AND DISCOVERY CHALLENGES

Respondent first raises three challenges related to the conduct of the bench trial regarding statutory grounds for termination. We review a trial court's decision to admit evidence, to qualify an expert, and to adjourn a proceeding for an abuse of discretion. *In re Archer*, 277 Mich App 71, 77; 714 NW2d 1 (2007); *In re Utera*, 281 Mich App 1, 9; 761 NW2d 253 (2008). Constitutional questions and issues of law underlying evidentiary rulings are reviewed de novo. *People v Kowalski*, 492 Mich 106, 119; 821 NW2d 14 (2012).

A. ADMISSION OF TENDER YEARS EVIDENCE

Respondent first argues that the trial court erred in admitting the hearsay statements of S pursuant to the "tender years" exception.

MCR 3.972(C)(2) allows the admission of statements from a child under 10 years of age that are otherwise inadmissible hearsay in certain limited circumstances, and provides in relevant part:

> *Child's Statement*. Any statement made by a child under 10 years of age or an incapacitated individual under 18 years of age with a developmental disability as defined in MCL 300.1100a regarding an act of child abuse, child neglect, sexual abuse, or sexual exploitation, as defined in MCL 722.622 (f), (j), (w), or (x) performed with or on the child by another person may be admitted into evidence through the testimony of a person who heard the child make the statement as provided in this subrule.
>
> (a) A statement describing such conduct may be admitted regardless of whether the child is available to testify or not, and is substantive evidence of the act or omission if the court has found, in a hearing held before trial, that the circumstances surrounding the giving of the statement provide adequate indicia of trustworthiness. This statement may be received by the court in lieu of or in addition to the child's testimony.

It is undisputed that S is under 10 years old and described acts of child abuse. Respondent argues, however, that (1) only statements made by S related to abuse that he himself had suffered are implicated by this rule; and (2) all statements by S lacked "adequate indicia of trustworthiness" for admission.

When presented with respondent's first argument, the trial court concluded that the word "with" in MCR 3.972(C)(2) included abuse that occurred while the child was present, even if that child did not directly suffer the abuse. The trial court further noted that Michigan case law

"says children present where there is violence in the home is abuse that would of – or neglect that would apply to them."

Although the attorney general refers this Court to a dictionary definition of the word "with," we find it unnecessary to resort to a dictionary in the instant case. The relevant definitions of "child abuse" and child neglect found in MCL 722.622 both speak of "harm or threatened harm to a child's health or welfare." See MCL 722.622(f), (j). "Child abuse" includes "mental injury" and "maltreatment". MCL 722.622(f). "Child neglect" includes placing a child at risk by failure of "any . . . person responsible for the child's health or welfare" to "intervene to eliminate that risk . . . ." MCL 722.622(j)(*ii*). Here, in addition to acts of physical abuse reported by S, S stated that he was present while a child was threatened with a knife and present while SB was scalded by hot water. He stated that in each case he took action that exposed him to risk by attempting grab the knife from respondent and by removing SB from scalding hot water. Additionally, he stated that respondent left the house following the incident with SB and that the children were left in the house unsupervised. Under the facts of this case, the trial court did not abuse its discretion in determining that S's statements that did not pertain to direct physical abuse suffered by S were nonetheless statements concerning an "act of child abuse [or] child neglect" under MCR 3.972(C)(2).

Next, respondent argues that S's statements lacked adequate indicia of trustworthiness. The trial court found that S's statements regarding SB's burns were supported by the testimony of Drew and pictures indicating that SB's feet were in fact burned. The trial court made no statement regarding the trustworthiness of S's other statements concerning physical abuse. However, on balance, we conclude the trial court did not abuse its discretion in admitting S's statements.

"Circumstances indicating the reliability of a hearsay statement may include spontaneity, consistent repetition, the mental state of the declarant, use of terminology unexpected of a child of a similar age, and lack of motive to fabricate." *In Re Archer*, 277 Mich App 71, 82; 744 NW2d 1 (2007). "The reliability of a statement depends on the totality of the circumstances surrounding the making of the statement." *Id*. Here, Schmit testified that, as a trained forensic interviewer, she discussed the issue of truthfulness with S and concluded that he understood the difference between the truth and a lie. Further, aspects of his statements were corroborated by respondent himself, such as the statement that respondent left the house, as respondent testified to leaving the house to use a neighbor's phone to call LB. As the trial court noted, S's statements regarding SB's feet were corroborated by physical evidence. No evidence was presented of S's motive to fabricate this testimony, and Schmit testified that although his affect was unusual she did not believe his testimony seemed rehearsed or fabricated. See *Archer*, 277 Mich App at 82 (sufficient indicia of trustworthiness found when interviewer followed forensic interviewing protocols, the child described abuse in an age-appropriate way, and statements were corroborated by physical evidence). Although respondent argues that conflicting evidence existed regarding whether S was present when SB was burned, the trial court was not required to determine that S's statements were *more* credible than the statements of respondent and LB; rather the trial court was only tasked with determining if adequate indicia of trustworthiness existed. Disparity in testimony presented by witnesses relates to the weight of the evidence, not its admissibility. *People v McGhee*, 268 Mich App 600, 624; 709 NW2d 595 (2005).

Further, even assuming that S's statements were admitted in error, error in the admission of evidence does not require reversal unless it is prejudicial. See *People v Snyder* (*After Remand*), 301 Mich App 99, 111; 835 NW2d 608 (2013). Here, the referee stated that she was aware of issues surrounding S's statements and would only give the statements "some" weight, and found the evidence of abuse provided by S's statements to be "not overwhelming." Further, the referee made it clear that the evidence of intentional burning provided by Angelilli's testimony and SB's medical records formed, if not the sole basis, at the least the chief basis for her determination that the statutory grounds for termination were proven by clear and convincing evidence.[7] Under these circumstances, respondent cannot demonstrate that he was prejudiced by the admission of testimony regarding S's statements.

B. FAILURE TO ADJOURN TENDER YEARS HEARING AND TRIAL

Respondent next challenges the trial court's denial of respondent's motion to adjourn the tender years hearing and trial. Respondent argues that he was prejudiced by the trial court's actions by being unable to prepare for the tender years hearing or subpoena witnesses. We disagree.

Regarding the trial, the parties' counsel met at a motion hearing before the trial judge on December 2, 2013.[8] Respondent's counsel indicated that the only discovery issue outstanding was petitioner's witness list and that "for the most part, there has been compliance with the Discovery Order." Respondent's counsel's remaining issues resolved at the hearing. Respondent did not request that the trial be adjourned; in fact respondent agreed with the trial judge's statement that a "specific order" was not needed as a result of the hearing. We decline to find on appeal that the trial court erred in failing to adjourn the bench trial when respondent adopted a contrary position below. See *Czymbor's Timber v City of Saginaw*, 269 Mich 551, 556; 711 NW2d 442 (2006).

Regarding the tender years hearing, the record does not support respondent's contention that he was allowed insufficient time for discovery. As noted above, respondent's counsel raised the issue of completing discovery at pretrial on October 22, 2013. The referee told counsel that a motion for discovery should be filed with the trial judge. However, sixteen days later, counsel still had not filed a discovery motion. Further, respondent was timely served with the tender years motion and petitioner's witness list. Nothing in the record indicates that respondent was denied crucial discovery materials despite an order compelling discovery, or that respondent was

[7] The referee's report suggests that the referee may not have actually relied on S's statements at all, as the report referred to S's statements as providing a "preponderance" of evidence of abuse, while referring to the medical testimony and evidence as providing "clear and convincing" evidence of abuse. As clear and convincing evidence was the appropriate evidentiary standard to be applied, see *In re Miller*, 433 Mich 331; 445 NW2d 161 (1989), the referee's report could be read as stating that S's statements failed to meet this evidentiary standard. This fact further supports our conclusion that respondent cannot demonstrate that he was prejudiced by the admission of S's statements.

[8] We note that at this point the trial had already been adjourned once at the request of respondent.

denied the opportunity to subpoena witnesses. Adjournments of child protective proceeding must be for good cause. MCR 3.923(G). Here, we can discern no such good cause from the record; respondent appears to have had "sufficient time to prepare . . . and secure witnesses" for the tender years hearing. See *DeGeorge v Warheit*, 276 Mich App 587, 593-594; 741 NW2d 384 (2007).

Finally, regarding discovery material that respondent was not able to obtain in time for the hearing, respondent only specifically mentions that he was denied the opportunity to obtain a DVD of a forensic interview conducted of S six days *after* the tender years hearing. Assuming that respondent's argument is that if the trial court had adjourned the tender years hearing, he could have obtained the DVD of the interview to use for impeachment purposes at a rescheduled hearing, we find no merit to it. Neither party nor the trial court made mention of any pending forensic interview at the tender years hearing or any previous motion hearing. We cannot fault the trial court for failing to adjourn the hearing to wait for a pending forensic interview of which it was never informed (even assuming that the interview had been scheduled by the time of the hearing). Further, although respondent could not use the interview to impeach S's statements at the tender years hearing, the trial court made it clear that the interview could be used to impeach S's statements at the bench trial (which respondent did not do). We find no abuse of discretion in the trial court's denial of adjournment of the tender years hearing. *Utera*, 281 Mich App at 9.

C. QUALIFICATION OF EXPERT

Next, respondent argues that the trial court erred in qualifying Angelilli as "an expert in burns." The record reflects that the trial court actually qualified her as an expert in child abuse, and stated that "to the extent that encompasses burns I will allow her to testify . . . ." We find no error in the trial court's qualification of, or in its allowance of testimony by, Angelilli regarding SB's burns.

MRE 702 allows the admission of opinion testimony by an expert if such testimony will assist the jury in understanding the evidence or in determining a fact at issue. MRE 702; *Edry v Adelman*, 486 Mich 634, 639; 786 NW2d 567 (2010). The admission of expert testimony requires qualification of the witness as an expert by knowledge, skill, experience, training, or education. MRE 702; *Mulholland v DEC Int'l Corp*, 432 Mich 395, 403; 443 NW2d 340 (1989). The party offering the expert has the burden of showing that the expert has the necessary qualifications. *Siirila v Barrios*, 398 Mich 576, 591; 248 NW2d 171 (1976). A trial court may consider a witness's prior trial experience in determining her qualification. *People v Lewis*, 160 Mich App 20, 28; 408 NW2d 94 (1987).

Here, the record shows that Angelilli was a licensed pediatrician who specialized in the diagnosis of child abuse; she had been a member of the Children's Hospital's "burn team" for five years and had regularly reviewed cases of suspected child abuse involving burns; in fact, Angelilli testified that she had reviewed "every burn" (presumably on a child) that had come into the hospital for the past five years. Angelilli testified that she gave lectures two or three times a year on child abuse injuries including burns. She testified that she had recently completed, although had not yet published, a study on burns in children. Finally, she had previously been qualified as an expert in child abuse in approximately 30 cases, more than 10 of which involved burns. Although respondent alleges that Angelilli admitted she was not a surgeon, had never operated on someone with burns, had not conducted or read studies of children being burned by

hot water, and was not a burn specialist, respondent does not explain how only a surgeon could be qualified to diagnose an injury as suspected child abuse. Further, the requirements for qualifying an expert are to be applied broadly. *Grow v W.A. Thomas Co*, 236 Mich App 696, 713; 601 NW2d 426 (1999). Respondent was permitted to examine these alleged deficiencies in Angelilli's training and experience during cross-examination; the trial court did not err in finding Angelilli's knowledge, skill, experience, training, and education sufficient for qualification as an expert on child abuse able to testify as to suspicious burns. Any limitations in Angelilli's qualifications are relevant to the weight, not the admissibility, of her testimony. *Id*. at 714.

III. STATUTORY GROUNDS FOR TERMINATION

Defendant argues that the trial court erred in determining that petitioner had proven statutory grounds for termination. We disagree. A trial court's findings regarding the statutory grounds for termination and a child's best interests are reviewed for clear error. MCR 3.977(K); *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). "A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made." *In re Jenks*, 281 Mich App 514, 517; 760 NW2d 297 (2008).

Once a trial court has assumed jurisdiction over a child, it may terminate a respondent's parental rights if it finds clear and convincing evidence that at least one statutory ground for termination exists under MCL 712A.19b(3). *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Here, the trial court found that statutory grounds for termination had been proven under MCL 712A.19b(3)(g) and (j), which provide:

> (g) The parent, without regard to intent, fails to provide proper care and custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.
>
> (j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

Because respondent's parental rights were terminated at the initial dispositional hearing, petitioner was required to establish a statutory ground for termination by clear and convincing evidence. MCR 3.977(E)(3)(b).

We find that the trial court did not clearly err in determining that there was a reasonable likelihood, based on the conduct of respondent, that the children would be harmed if they were returned to his home. The trial court heard evidence that SB's burns had been intentionally inflicted and had required multiple-day hospitalization. Under the doctrine of anticipatory neglect or abuse, how a parent treats one child is probative of how he or she may treat other children. *In re Hudson*, 294 Mich App 261, 266; 817 NW2d 115 (2011). This doctrine is applicable even where the abuse that leads to the filing of the petition for termination is directed at a child other than the respondent's own child. *In re Powers*, 208 Mich App 582, 592-593; 528 NW2d 799 (1995). Respondent's oldest child is two years older than SB; the youngest a mere six months older. Considering the severity and nature of the physical abuse in this case, the trial

court did not clearly err in determining that MCL 712A.19b(3)(j) was satisfied as to respondent-father by clear and convincing legally admissible evidence.

Because only one statutory ground for termination is required, *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000), it is unnecessary for us to determine whether termination of respondent-father's rights was also warranted under MCL 712A.19b(3)(g).

IV. BEST-INTEREST DETERMINATION

Finally, respondent argues that the trial court erred in determining that termination of his parental rights was in the children's best interest. We disagree. "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). The trial court must determine by a preponderance of the evidence that termination is in the children's best interest. *In re Moss*, 301 Mich App 76, 83; 836 NW2d 182 (2013). In making that determination, it must consider the record as a whole. *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). The court may consider respondents' parenting ability, as well as the children's need for permanency, stability, and finality. *In re Olive/Metts Minors*, 297 Mich App 35, 42; 823 NW2d 144 (2012).

Here, the trial court heard evidence that respondent felt a deep bond to SB and acknowledged that during the incident he was responsible for SB's well being. However, this bond and responsibility did not prevent respondent from causing serious burns to SB's feet. The trial court also heard evidence of respondent's bond to his own children, and could conclude, based on the abuse of SB, that this bond would not protect the children from harm. The existence of a bond between parent and child can be outweighed by the children's interest in not being harmed. See *In re LE*, 278 Mich App 1, 29-30; 747 NW2d 883 (2008). Further, the trial court was presented with an evaluation that indicated that respondent had a history of domestic violence against LB, which respondent denied at trial. The report described respondent as "an angry young man" who is "immature and extremely self-focused." The report articulated numerous concerns that the clinician had for the children's safety if they were returned to respondent's care. The trial court noted that, notwithstanding respondent's profession of a bond between him and his children and willingness to comply with a parent-agency agreement, "some abuse to children is so egregious that people . . . should not have another chance to parent a child." We find no clear error in the trial court's best-interest determination or in the resulting termination of respondent's parental rights.

Affirmed.

/s/ Michael J. Riordan
/s/ Jane M. Beckering
/s/ Mark T. Boonstra